



May 19, 2017

Ms. Pauline Easley
Legal Assistant
General Counsel's Office
Texas Department of Licensing and Regulation

RE: AIHA Comments on Proposed Rule for Mold Assessors and Remediators (42 TEXREG 2057)

Dear Ms. Easley:

On behalf of the American Industrial Hygiene Association® (AIHA), I submit the following comments and recommendations for your consideration in response to the Texas Department of Licensing and Regulation's proposed revised regulation on mold assessors and remediators:

- 1) Clarify the proposed rule by replacing the phrase “certification as an industrial hygienist” with “Certified Industrial Hygienist”.**
 - 2) Exempt Certified Industrial Hygienists (CIH's) from the additional educational and training requirements proposed in this rule.**
 - 3) Eliminate the proposed requirement for those licensed to perform mold remediation and assessment to maintain an office in Texas, as this would effectively prohibit interstate trade by otherwise qualified individuals.**
 - 4) Modify the proposed rule to allow a thorough visual inspection to be sufficient as the post-remediation clearance criteria with the use of microbial air samples as the secondary verification method.**
 - 5) Include references to technical publications that describe industry accepted methods for completing thorough mold remediation projects.**
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- 1) Clarify the proposed rule by replacing the phrase “certification as an industrial hygienist” with “Certified Industrial Hygienist”.**

Throughout the proposed rule, reference is made to “certification as an industrial hygienist”. While this is likely intended to reference Certified Industrial Hygienists (CIH®), the lack of specificity may have legal implications. A CIH is required to qualify under a professional certification program administered by the American Board of Industrial Hygiene¹ (ABIH®).

¹ <http://www.abih.org/about-abih/index>

ABIH is the world's largest organization for certifying professionals in the field of industrial hygiene. The CIH credential is referenced in State regulations throughout the Nation, and is known throughout the world as the 'gold standard' for certification as an industrial hygienist. Accordingly, to improve clarity in the rule, we recommend changing the references within the proposed rule from "certification as an industrial hygienist" to "Certified Industrial Hygienist" or "CIH", as appropriate.

2) Exempt Certified Industrial Hygienists (CIH's) from the additional educational and training requirements proposed in this rule.

The path to becoming a Certified Industrial Hygienist is challenging; individuals must meet the requirements for education and experience as set forth by ABIH and demonstrate, through the completion of a required examination, an acceptable level of skills and knowledge in a number of different areas, including²:

- Air Sampling & Instrumentation
- Analytical Chemistry
- Basic Science
- Biohazards, including Mold
- Biostatistics & Epidemiology
- Community Exposure
- Engineering Controls/Ventilation
- Ergonomics
- Health Risk Analysis & Hazard Communication
- IH Program Management
- Noise
- Non-Engineering Controls
- Radiation – Ionizing and Non-ionizing
- Thermal Stressors
- Toxicology
- Work Environments & Industrial Processes

CIHs must maintain their certification by successfully participating in the Certification Maintenance (CM) program which includes on-going continuing education and a commitment to follow the ABIH Code of Ethics. As a result, the experience, education and training requirements for CIH's exceed the current requirements of the Texas Department of Licensing and Regulation's proposed regulation for mold assessors and remediators. Therefore, AIHA recommends that CIH's be exempt from all additional educational and training requirements as proposed in this rule.

² <http://www.abih.org/about-abih/cih-caih>

3) Eliminate the proposed requirement for those licensed to perform mold remediation and assessment to maintain an office in Texas, as this would effectively prohibit interstate trade by otherwise qualified individuals.

AIHA encourages the Department to remove the proposed requirement that a person licensed to perform mold remediation or assessment maintain an office in Texas, because this may result in the unintended consequence of prohibiting certain interstate trade by individuals who would otherwise be qualified to perform this work. In particular, CIH's from surrounding states with specific expertise in mold assessment and remediation should not be prohibited from providing their technical expertise to Texas homeowners and businesses.

4) Modify the proposed rule to allow a thorough visual inspection to be sufficient as the post-remediation clearance criteria with the use of microbial air samples as the secondary verification method.

From the AIHA *Report of Microbial Task Force* (2001), "The principal quality assurance performance indicator is documentation that the precipitating water or moisture sources have been identified and eliminated, and all affected areas have been physically inspected to ensure that mold has been removed," It is noted that microbial air sampling is not a recommended method alone for the evaluation of the completion of a mold remediation project. Several scientific studies have shown that microbial sampling results can be enormously variable over both time and space, and that the lab results of these tests have little probative value unless the sampling is part of an overall evaluation. The overall evaluation should include a thorough visual inspection and a review by a licensed mold assessment consultant to verify that the procedures listed in the remediation protocol and remediation work plan were followed as written during the mold remediation process.

Therefore, AIHA recommends modifying Section 78.140 to focus on the visual inspection and the overall mold assessment to determine whether or not the project meets the accepted clearance criteria. AIHA proposes that microbial sampling be considered a secondary verification tool. In many cases, microbial air sampling may not be needed. This determination would be made by the licensed mold assessment consultant. If the visual inspection reveals inadequate removal of material, or that the source of moisture has not been addressed, then the post-remediation clearance process will not 'clear' the project for re-occupancy. The clearance evaluation process approach, rather than just collecting samples, agrees with industry-accepted methods.

5) Include references to technical publications that describe industry accepted methods for completing thorough mold remediation projects.

The proposed regulation refers to "nationally accepted" and "nationally recognized" analytical methods. However, these terms are not defined. AIHA recommends changing language in Section 78.100(d)(1) and Section 78.100(i)(1) from "national accepted" and "nationally recognized" to "industry accepted" or "industry recognized".

Industry accepted methods for conducting mold remediation projects from the initial assessment through the final post remediation validation, including the analytical methods, are detailed in

several highly regarded publications. In addition, the following publications should be referenced within the regulation as resources for proper scientifically based remediation processes and methods: *Assessment, Remediation, and Post-Remediation of Mold in Buildings* (AIHA Press, 2004), *Recognition, Evaluation and Control of Indoor Mold* (AIHA Press, 2008), and *Bioaerosols: Assessment and Control* (American Conference of Governmental Industrial Hygienists, 1999).

Founded in 1939, AIHA is the premier association of occupational and environmental health and safety professionals. AIHA's 8,500 members play a crucial role on the front line of worker health and safety every day. Our members represent a cross-section of industry, private business, labor, government and academia.

Thank you for your consideration of AIHA's comments and recommendations. Should you have any questions or desire additional information, please contact me at mames@aiha.org or (703) 846-0730.

Respectfully,



Mark Ames
Director of Government Relations
AIHA